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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

ICALL, INC., Plaintiff, vs. TRIBAIR, INC., ERIC REIHER, and Does 1 – 5, Defendants.) Case No.: CV 12 2406 EMC)) FIRST AMENDED COMPLAINT FOR) INJUNCTIVE RELIEF AND DAMAGES) FOR TRADEMARK INFRINGEMENT,) TRADEMARK DILUTION, AND UNFAIR) COMPETITION)) 1. Lanham Act § 32 (15 U.S.C. hereinafter) referred to as U.S.C. § 1114)) 2. Lanham Act § 43 (15 U.S.C. § 1125(a))) 3. Lanham Act § 43 (15 U.S.C. § 1126(c))) 4. Cal. Bus. & Prof. Code § 14245(a)) 5. Cal. Bus. & Prof. Code § 17200, <i>et seq.</i>) 6. Declaratory Relief)) JURY DEMAND
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AND RELATED COUNTERCLAIM

For its first amended complaint against defendants Tribair, Inc. (“Tribair”) and Eric Reiher (“Reiher”), jointly referred to sometimes herein as “Defendants,” plaintiff iCall, Inc. (“Plaintiff”), alleges:

JURISDICTION

1. This is an action for infringement of a federally registered trademark pursuant to 15 USC §1114, 15 USC §1125(a), 15 USC §1125(c), 15 USC §1125(d) and unfair competition under California Business & Professions Code § 17200, *et. seq.*, and violations of the California trademark law, California Business & Professions Code §§ 14245, 14320, and 14330.
2. This Court has jurisdiction over this action pursuant to: 28 USC §§ 1331 and 1338(a) and (b), and 15 USC §1121, as an action for violations of the Lanham Act, 15 USC §§ 1051, *et seq.*,

1 28 USC § 1332(a)(1), and has pendent, supplemental and ancillary jurisdiction pursuant to 28
2 U.S.C. § 1367 of state law claims arising from a common nucleus of operative fact under the
3 California State Unfair Competition, Trademark Infringement, Trademark Dilution, and Trade
4 Name Infringement Laws contained herein under the provisions of 28 USC §1338(b) in that said
5 claims are joined with a substantial and related claim under the trademark laws of the United
6 States, 15 USC §§ 1051, *et seq.* Further, this Court has jurisdiction under the United States
7 Declaratory Judgment Act, 28 USC §§2201 and 2202.

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9 3. Venue is proper under 28 USC § 1391(d), because Defendants are aliens, to wit, Tribair is a
10 corporation incorporated in Canada, and Reiher is a natural person and a resident of Canada;
11 venue is further proper under 28 USC § 1391(b)(2) because the Defendants have caused injury to
12 Plaintiff and loss of customers in this District by generating consumer confusion and the
13 likelihood of confusion regarding Plaintiff's "iCall" Federally-registered trademark by marketing
14 goods and services in the App Store operated by Apple, Inc. within the Northern District of
15 California at 1 Infinite Loop, Cupertino, California 95014.
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18 **INTRADISTRICT ASSIGNMENT**

19 4. Pursuant to L.R. 3-2(c), intradistrict assignment of this Intellectual Property Action is made
20 on a District-wide basis.
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22 **PARTIES**

23 5. Plaintiff is a corporation incorporated in the State of Delaware, registered to do business in
24 the State of California pursuant to Cal. Corp. Code § 2105 as Entity No. C3281083 in the State
25 of California, doing business in the State of California. Plaintiff is additionally the assignee of
26 the trade name rights of its predecessor in interest, the first corporation to register as a California
27 corporation under the iCall, Inc. trade name.
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1 6. Defendant Tribair is a Canadian company officed at 1343 Rue des Pluviers, Longueil,
2 Quebec, Canada J4G 2N4.

3 7. Defendant Reiher is the Chief Executive Officer of Tribair, a natural person officed at 1343
4 Rue des Pluviers, Longueil, Quebec, Canada J4G 2N4.

5 8. This Court has personal jurisdiction over Defendants, because Defendants have caused a
6 likelihood of confusion with Plaintiff's registered trademark, have tarnished and diluted
7 Plaintiff's famous mark, and have caused Plaintiff to lose a substantial number of customers in
8 the State of California and in this judicial District. Defendants have used the means and
9 instrumentalities of interstate commerce, including but not limited to the Internet, interstate
10 telephone communications, the mails, and other interstate communications within this judicial
11 District, and therefore they, and each of them, have purposely availed themselves of the laws of
12 the State of California operative within this judicial District.

13 9. The full extent of the facts linking the fictitiously named defendants Does 1 through 5 with
14 the matters alleged herein, and/or the true names or capacities, whether individual, corporate,
15 partnership, associate, member or otherwise of said fictitiously named defendants, are unknown
16 to Plaintiff, who therefore sues said defendants by such fictitious names. Plaintiff is informed
17 and believes and thereon alleges that each of the defendants designated herein as Doe 1 through
18 5 negligently, wantonly, recklessly, tortiously and unlawfully committed the acts that
19 proximately caused injury and damages to Plaintiff as alleged herein. Plaintiff will hereafter
20 seek leave of court to amend this complaint to allege said defendants' true names and capacities
21 when the same have been ascertained.

22 10. Plaintiff alleges, on information and belief, that each defendant named herein including
23 those named as Does, is and at all relevant times mentioned was, the agent, servant,
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co-conspirator, advertiser, and/or employee of each of the other Defendants and, in doing the things alleged herein, was acting in the course and scope and with the knowledge of each of the other named Defendants. Plaintiff further alleges on information and belief that each Defendant named herein aided and abetted the others by authorizing and/or ratifying the acts herein alleged.

PLAINTIFF'S FEDERAL AND CALIFORNIA RIGHTS

11. Complainant has the following exclusive rights respecting the iCall mark and name:

- a. To offer goods and services in interstate and international commerce using the iCall® mark in International Class 38 for telephone communication services, including aural and optical information transmission. (Exhibit 1, USPTO Registration No. 2,194,066, issued 10/6/1998, first use in commerce 4/1/1996.)¹
- b. To use ICALL.COM, and all second-level confusingly-similar domain names, on the Internet based on first registration of the ICALL.COM domain and use in commerce of the iCall® mark. (Exhibit 2, page 1.)²
- c. To offer "Telecommunications Services, Carrier Services, and Mobile Platforms" in the State of California using iCall Registered Service Mark 66916. (Exhibit 3.)³
- d. To use iCall as a California trade name. (Exhibit 4.)⁴

iCall's Sixteen Years of Use In Interstate Commerce

12. With first use in commerce commencing March 1, 1996, iCall and its predecessors in interest have used the iCall® mark in commerce for over sixteen (16) years to identify its services and distinguish them from those made and sold by others, prominently displaying the

¹ The Lanham Trademark Act, 15 U.S.C. § 1114.

² The Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d).

³ Cal. Business & Profession Code §14247.

⁴ Cal. Business & Professions Code § 14415.

1 iCall® mark and iCall, Inc. trade name on the products themselves, by hosting advertisements,
2 displays, and other materials associated therewith at the iCall.Com website, and in the Apple
3 App Store. The App Store page devoted to the iCall VoIP App is attached as Exhibit 5. Plaintiff
4 has invested approximately \$4,000,000 in the development and marketing of the iCall®
5 software.
6

7 13. Plaintiff's primary product and service is the provision of free and low-cost long-distance
8 telephone communication using a Voice-over Internet protocol ("VoIP") calling platform that
9 operates on desktop computers and mobile devices like the Apple iPhone and the iPod Touch.
10 iCall® VoIP includes proprietary functions driven by unique patented software.
11

12 **Plaintiff's Mark Is Famous Within The Internet VoIP Market**

13 14. iCall® VoIP has become popular because of its efficacy and user-friendliness. To use
14 VoIP, a consumer must have either a computer with an Internet connection, or a handheld device
15 that has Internet access through a wireless network; therefore, virtually the entire market for
16 VoIP is contained within the Internet, and is exclusively comprised of Internet users. iCall®
17 VoIP provides very substantial cost-savings to Internet users, who can make voice calls around
18 the world using their unlimited Internet access accounts, for which they usually pay a fixed
19 monthly fee, instead of incurring costly per-minute charges and over-plan-limit fees using their
20 wireless accounts. iCall® VoIP thus provides measureable cost-savings to both businesses and
21 individuals, increasing consumer access to voice communications at decreased expense, and
22 fulfilling the promise of the Internet to facilitate worldwide connectivity. Plaintiff has been a
23 leader in VoIP for both individuals and companies, and offers wholesale VoIP solutions for
24 business through iCall® Carrier Services.
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1 15. iCall® VoIP service is particularly valuable for persons and businesses making long
2 distance and international telephone calls over cellular “smartphones” that incur high toll-
3 charges through the established system of wireless telephone service providers, but can avoid
4 these unnecessary costs by using their Internet access to take advantage of iCall® VoIP.

5
6 16. Plaintiff has used the iCall.Com domain and the iCall® mark exclusively for development,
7 distribution and marketing of telephone and VoIP services, wherefore Plaintiff’s iCall® mark has
8 acquired public acceptance and an associated secondary meaning in the mind of the consuming
9 public that connects the iCall® mark with Plaintiff’s VoIP service, thereby creating goodwill that
10 inures to Plaintiff’s benefit.

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12 17. The iCall® VoIP software has been downloaded over fifteen-million (15,000,000) times,
13 and the iCall® VoIP private network has grown to where it now carries over 1 billion minutes of
14 voice traffic per month to destinations around the globe. The www.iCall.Com website enjoys
15 consistently high traffic rankings on third-party Internet traffic monitors such as Alexa.com, and
16 the largest volume of Internet visitors arrive at the www.iCall.Com website either by typing in
17 the iCall.Com domain name directly into their Internet browser address bar, or by typing the
18 “icall” phrase into a search engine like Google, Yahoo, or Bing. Such consumer identification of
19 the iCall® mark indicates that the iCall® mark, the iCall.Com domain, and the iCall, Inc. trade
20 name have attained a strong secondary meaning in the mind of the VoIP-consuming public.

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23 **Plaintiff’s iCall® Mark Is Famous in The Mobile App Market for VoIP**

24 18. Plaintiff provides a specialized iCall® App for iPhone and iPod users. Apple, Inc., the sole
25 source of the iPhone, requires all iPhone App providers to utilize specific developer tools and to
26 submit their Apps for approval before they can be offered for sale through the iPhone App Store.
27 In March 2009, Apple, Inc. approved the iCall® iPhone App for distribution through the iPhone
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App Store. Because iPhone Apps can also be “played” on the iPod Touch music player, and the iPod Touch has wireless capabilities, the iCall® software allows iPod Touch owners to make long-distance and international calls whenever they are in a standard Internet wireless access zone, such as those commonly found in coffee-houses (“wireless hot spots”) thus turning a simple media device into a vehicle for unlimited international phone-calling. iCall® software is completely unique in providing VoIP to users of the iPod Touch. Consumers may download the iCall® App for free, and upgrade to a higher level of service for \$9.95 per month.

19. Third-party media outlets have lauded the iCall® App, including the influential ModMyi.com blog, that described the iCall® iPhone App as “the next step in VoIP technology as a whole.”⁵ Plaintiff continued to blaze a trail that brought it national press when it became the first iPhone VoIP App to offer free VoIP calls on the AT&T mobile network, which garnered Plaintiff’s iCall® iPhone App the designation of “App of the Week” on February 2, 2010, in the “Gadgetwise” column in the Personal Tech section of the New York Times Business page.⁶ One week later, on February 10, 2010, the New York Times published a second article that highlighted Plaintiff’s iCall® iPhone App, entitled “Better Calling For Less, By Skipping the Cell Network.”⁷

20. Plaintiff’s iCall® mark has attained fame as a uniquely-identifiable VoIP provider among personal and business consumers in the Internet App market for VoIP.

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⁵ <<http://modmyi.com/forums/iphone-news/316841-icall-first-voip-appstore-app.html>>

⁶ <http://gadgetwise.blogs.nytimes.com/2010/02/02/we-have-all-long-known-how-t/>

⁷ <http://www.nytimes.com/2010/02/11/technology/personaltech/11smart.html>

Defendant Tribair Is Using the WiCall Mark In the App Store And Elsewhere

In A Manner Likely to Cause, and Causing, Consumer Confusion, Mistake, and Deception

21. Defendants, without Plaintiff's consent, are using the nearly-identical "WiCall" mark to market a competing VoIP App in the Apple App Store, where it appears side-by-side with the iCall VoIP App when a search is made for the text-string "icall" in the App Store search box, as depicted in Exhibit 6. Defendants have proliferated the infringing "WiCall" mark elsewhere on the Internet, as depicted in Exhibit 7, partial results for a Google search of "wicall app".

22. Plaintiff discovered Defendant's infringement of the iCall® mark on or about March 16, 2012, and promptly made demand upon Defendant to cease the infringing use.

23. Defendant's have refused to cease use of the infringing "WiCall" mark.

24. Defendants offer competing VoIP services within the same market channel as Plaintiff.

Defendant's intention in adopting the "WiCall" mark was to create an inherently confusing mark to usurp the goodwill and secondary association of the iCall® with Plaintiff's VoIP service, and in order to attract, confuse, mislead, and deceive the large number of Internet users searching for "icall" using Google, Yahoo!, Bing, or other search engines.

25. Defendants have used the "WiCall" mark in the United States, on the Internet, and in other channels of communication that reach all fifty (50) states within the United States.

26. Defendants' usurpation of plaintiff's iCall® mark by incorporating it bodily into the "WiCall" mark is entirely without permission or authority of Plaintiff.

27. Defendants' "WiCall" mark is confusingly similar to plaintiff's federally registered iCall® mark in sight, sound, and meaning.

1 28. Defendants have maximized the similarity in sight by copying the typeface and typography
2 of “iCall,” i.e., by using a sans-serif font with a lower-case “i” and capital “C,” both when
3 utilizing the iCall® mark singly and in the “WiCall” mark.
4

5 29. Defendants’ usurpation of the iCall® mark to promote substantially similar VoIP services in
6 Internet commerce leads to the likelihood of confusion.

7 30. Defendants’ use of “WiCall” as a mark wholly incorporating the iCall® mark is likely to
8 cause and has caused confusion with plaintiff’s federally registered and incontestable iCall®
9 mark and trade name because the two marks are (1) similar in sight, sound and meaning, (2) used
10 to promote substantially similar goods and services, (3) are advertised and promoted to the same
11 classes of consumers on the Internet, and (4) are advertised and promoted in the same channels
12 of trade. Such similarities are likely to cause and have caused confusion as to origin,
13 sponsorships, source, or affiliation.
14

15 31. Defendants’ use of the iCall® mark singly and within the “WiCall” mark has diluted and
16 tarnished the unique character of the iCall® mark in the market for VoIP products and services.
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18 32. On March 20, 2012, after receiving actual notice from Plaintiff that the “WiCall” mark is
19 infringing, Defendants submitted fraudulent trademark application Serial Number 85574570 to
20 the United States Patent and Trademark Office in International Class 038, falsely averring
21 therein that “to the best of his/her knowledge and belief no other person, firm, corporation, or
22 association has the right to use the mark in commerce, either in the identical form thereof or in
23 such near resemblance thereto as to be likely, when used on or in connection with the
24 goods/services of such other person, to cause confusion, or to cause mistake, or to deceive...” A
25 true copy of the said fraudulent application is attached hereto as Exhibit 8.
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FIRST CLAIM FOR RELIEF
Infringement of a Registered Trademark in Violation of
Section 32 of the Lanham Act, 15 USC § 1114
Against All Defendants

33. Plaintiff re-alleges and incorporates by reference each and every allegation set forth herein as if set forth in full hereat.

34. As alleged above, Plaintiff owns a federal trademark registration for and is the senior user of the incontestable iCall® mark. Plaintiff has successfully protected its exclusive use of the mark against all other businesses in the telephone and telecommunications business that have attempted to utilize the mark. Plaintiff is the sole lawful user of the mark in the telecommunications field including all forms of telephonic audio and video transmission.

35. Defendants commenced use of the iCall® mark singly and by incorporating it into the inherently confusing “WiCall” mark in 2012, long after Plaintiff’s first date of use in commerce in 1996.

36. Plaintiff has not consented to Defendants’ use of the iCall® mark expressly or by implication.

37. Defendants have constructive notice of the plaintiff’s rights in its federally registered and incontestable iCall® mark.

38. Defendants have been on actual notice of Plaintiff’s rights as alleged herein since no later than March 16, 2012.

39. Defendants’ usurpation of Plaintiff’s iCall® mark by incorporating it into the inherently confusing “WiCall” mark in connection with the advertising, distributing, offering for sale and selling of VoIP and long distance calling services in interstate commerce similar or related to those offered by Plaintiff constitutes use in commerce of the iCall® mark in a manner likely to

1 cause, and causing, actual confusion, mistake and deception among consumers. Such use
2 therefore infringes upon Plaintiff's rights in its registered, incontestable iCall® mark.

3 40. Plaintiff has been damaged by Defendants' trademark infringement by reason of the
4 likelihood that customers and potential customers have been confused as to the source or
5 affiliation, sponsorship or approval of Defendants's goods and the relationship of such goods to
6 Plaintiff. Such confusion takes different forms with different consumers, and however such
7 confusion takes effect, it leads to mistaken associations between Plaintiff's products and services
8 and those provided by Defendants, which causes damage and irreparable harm to Plaintiff.
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11 41. Defendants have profited from the actions of trademark infringement alleged herein.

12 42. By reason of defendants' actions alleged herein plaintiff is likely to suffer irreparable injury
13 to its business, goodwill and property. Plaintiff is entitled, pursuant to 15 USC § 1117, to
14 recover from Defendants the damages they have sustained and will sustain as a result of
15 Defendants' wrongful conduct as alleged herein. Plaintiff is further entitled to recover from
16 Defendants' gains, profits and advantages that Defendants have obtained as a result of the
17 wrongful conduct alleged herein. Plaintiff, at present is unable to ascertain the full extent of its
18 damages, or the gains, profits and advantages that Defendants have obtained by reason of their
19 wrongful conduct, the full amount thereof to be proven at trial.
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21

22 43. Defendants' acts of infringement have been willful and taken without regard to the
23 established rights of Plaintiff.

24 44. Plaintiff is entitled pursuant to USC § 1116, to an injunction restraining defendants, their
25 officers, agents and employees, and all persons acting in concert with them, from engaging in
26 any further acts of infringement in violation of the Lanham Act.
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1 45. Plaintiff has no adequate remedy at law. Unless defendants are enjoined from committing
2 these unlawful acts as set forth above, plaintiff will continue to suffer irreparable harm.

3 46. This is an exceptional case; wherefore Plaintiff is entitled to an award of its reasonable
4 attorney's fees incurred in the prosecution of this action, pursuant to 15 U.S.C. § 1117.
5

6 **SECOND CLAIM FOR RELIEF**
7 **Use Of A False Designation In Violation Of Section 43(a)**
8 **of the Lanham Act, 15 U.S.C. § 1125(a)**
9 **Against All Defendants**

10 47. Plaintiff re-alleges and incorporates by reference each and every allegations set forth herein
11 as if set forth in full hereat.

12 48. The iCall® mark is a distinctive mark, uniquely associated with Plaintiff, that identifies
13 Plaintiff as the sole, true and legitimate source of iCall® VoIP products and services.

14 49. Defendants have caused their VoIP and long-distance products and services similar to, and
15 in the perception of Internet consumers virtually indistinguishable from those of Plaintiff, to
16 enter into interstate commerce in connection with the iCall® mark and the "WiCall" designation.
17 Defendants' unconsented and unlawful use of the iCall® mark and the "WiCall" mark to market
18 their VoIP and long-distance products and services are false designations of origin, that have
19 actually caused confusion and mistake among consumers, have deceived consumers as to the
20 affiliation, connection, or association of Defendants with Plaintiff, or alternatively and
21 conjunctively, have confused, caused mistake among, and deceived consumers as to the
22 affiliation, connection or association of Plaintiff with Defendants. Such false designations have
23 also caused confusion as to the origin, sponsorship, or approval of goods and/or services of
24 Plaintiff, and are likely to cause such confusion, mistake and/or deception among consumers in
25 the future.
26

27 50. By reason of Defendants' actions alleged herein, Plaintiff is likely to suffer and has suffered
28 irreparable injury to its business, good will and property.

1 51. Defendants have profited from their actions of trademark infringement alleged herein.

2 52. By reason of Defendants' actions alleged herein, Plaintiff is likely to suffer irreparable
3 injury to its business, good will and property. Plaintiff is entitled, pursuant 15 U.S.C. § 1117, to
4 recover from Defendants the damages they have sustained and will sustain as a result of
5 Defendants' wrongful conduct as alleged herein. Plaintiff is further entitled to recover from
6 Defendants the gains, profits and advantages that Defendants have obtained as a result of the
7 wrongful conduct alleged herein. Plaintiff is presently unable to ascertain the full extent of its
8 damages, or the gains, profits and advantages that Defendants have obtained by reason of the
9 wrongful conduct described herein.
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12 53. On information and belief, Defendants' acts of infringement have been willful and taken
13 without regard to the established rights of the Plaintiff.

14 54. Plaintiff is entitled pursuant to 15 U.S.C. § 1116, to an injunction restraining Defendants,
15 their officers, agents and employees, and all persons acting in concert with them, from engaging
16 in any further such acts of infringement in violation of the Lanham Act.
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18 55. Plaintiff has no adequate remedy at law. Unless Defendants are enjoined from committing
19 these unlawful acts as set forth above, Plaintiff will continue to suffer irreparable harm.
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21 56. This is an exceptional case; wherefore Plaintiff is entitled to an award of its reasonable
22 attorney's fees incurred in the prosecution of this action, pursuant to 15 U.S.C. § 1117.

23 **THIRD CLAIM FOR RELIEF**
24 **Dilution Of A Famous Mark In Violation Of Section 43**
25 **of the Lanham Act, 15 U.S.C. § 1126(c)**
26 **Against All Defendants**

27 57. Plaintiff realleges and incorporates herein all allegations set forth herein as if set forth fully
28 hereat.

58. Plaintiff's federally registered incontestable iCall® mark is distinctive and famous as one of
the premier names in the VoIP App marketplace.

1 59. Defendants first commenced usurping the iCall® mark and using the “WiCall” mark and
2 trade name in 2012, by which time Plaintiff had used its iCall® mark as a source identifier in the
3 Apple App Store for three (3) years, and attained fame within the VoIP App market. Defendants
4 have used the “WiCall” mark since Plaintiff’s iCall® mark attained fame within the VoIP App
5 market.
6

7 60. Defendants are usurping the iCall® mark and using the “WiCall” mark to market products
8 and services that, to the Internet consumer, are virtually indistinguishable from those offered by
9 Plaintiff.
10

11 61. Defendants’ usurpation of the iCall® mark results in their use of a mark nearly-identical in
12 sight, sound, and meaning to Plaintiffs’ iCall® mark, therefore blurring the distinctiveness and
13 consumer recognition of Plaintiffs’ mark as a unique identifier in commerce.
14

15 62. Defendants’ use of the inherently confusing “WiCall” mark and trade name results in their
16 use of a mark confusingly similar in sight, sound, and meaning to Plaintiffs’ iCall® mark,
17 therefore blurring the distinctiveness and consumer recognition of Plaintiffs’ mark as a unique
18 identifier in commerce.
19

20 63. Accordingly, by the acts alleged above, Defendants have diluted and tarnished the
21 distinctive qualities of Plaintiffs’ iCall® mark in violation of 15 U.S.C. § 1125(c).
22

23 64. Upon information and belief, Defendants have profited from their actions of trademark
24 infringement alleged herein.
25

26 65. By reason of Defendants’ actions alleged herein, Plaintiff is likely to suffer irreparable
27 injury to its business, good will and property. Plaintiff is entitled, pursuant to 15 U.S.C. § 1117,
28 to recover from Defendants the damages it has sustained and will sustain as a result of
Defendants’ wrongful conduct as alleged herein. Plaintiff is further entitled to recover from

1 Defendants the gains, profits and advantages that Defendants have obtained as a result of the
2 wrongful conduct alleged herein. Plaintiff is presently unable to ascertain the full extent of its
3 damages, or the gains, profits and advantages that Defendants have obtained by reason of the
4 wrongful conduct described herein.
5

6 66. Defendants' acts of infringement have been willful and taken without regard to the
7 established rights of Plaintiff.

8 67. Plaintiff is entitled pursuant to 15 U.S.C. § 1116, to an injunction restraining Defendants,
9 their officers, agents and employees and all persons acting in concert with them, from engaging
10 in any further such acts of infringement in violation of the Lanham Act.
11

12 68. Plaintiff has no adequate remedy of law. Unless Defendants are enjoined from committing
13 those unlawful acts as set forth above, Plaintiff will continue to suffer irreparable harm.

14 69. This is an exceptional case; wherefore Plaintiff is entitled to an award of its reasonable
15 attorney's fees incurred in the prosecution of this action, pursuant to 15 U.S.C. § 1117.
16

17 **FOURTH CLAIM FOR RELIEF**
18 **Use of A Colorable Imitation or Counterfeit of A Registered Mark**
19 **In Violation of Cal. Bus. & Prof. Code § 14245(a), et seq.,**
20 **Against All Defendants**

21 70. Plaintiff realleges and incorporates by reference herein each and every allegation set forth
22 herein as if set forth fully hereat.

23 71. Plaintiff's iCall mark is a registered mark within the meaning of Cal. B. & P. Code § 14215
24 (the "California Registered Mark"), as evidenced by the Certificate of Registration issued by the
25 California Secretary of State attached hereto as Exhibit 3.

26 72. Defendants had a duty to choose a mark for their VoIP services that could not be considered
27 a colorable imitation or counterfeit of Plaintiff's California Registered Mark.
28

1 73. Defendants “WiCall” mark is a colorable imitation of Plaintiff’s California Registered
2 Mark; in the alternative, the “WiCall” mark is a counterfeit of the California Registered Mark.

3 74. Defendants are using the “WiCall” mark in connection with the sale, distribution, offering
4 for sale, and advertising of Defendants’ own VoIP services, in the App Store and to Internet-
5 using consumers in the State of California.

6 75. Defendants’ use of the “WiCall” mark in connection with the distribution, offering for sale,
7 and advertising of Defendants’ own VoIP services in the App Store and on the Internet is likely
8 to cause confusion or mistake in the minds of ordinary consumers, and/or to deceive them as to
9 the source of origin of Defendants’ goods or services within the California market, in violation of
10 Section 14245(a)(1).
11

12 76. In violation of Section 14245(a)(2), and with the intent to cause confusion, mistake, and/or
13 deception, Defendants applied the “WiCall” mark to digital labels, signs, prints, and
14 advertisements to promote the sale of Defendant’s VoIP services, and distributed them to
15 consumers in the State of California, both in the App Store and over the Internet.,
16

17 77. Due to the above-alleged conduct of Defendants, Plaintiff is suffering and will continue to
18 suffer irreparable harm, for which Plaintiff has no adequate remedy at law; wherefore, pursuant
19 to Section 14245(a)(1), Plaintiff is entitled to an order enjoining Defendants’ manufacture, use,
20 or display of the “WiCall” mark in California commerce, and the destruction of any goods or
21 promotional materials bearing the “WiCall” mark pursuant to Section 14250(a).
22

23 78. Defendants’ profits from the sale of their VoIP services using the “WiCall” mark are
24 unlawful gains; wherefore, pursuant to Section 14245(a)(1), Plaintiff is entitled to an award of up
25 to three times Defendants’ profits gained by reason of the wrongful manufacture, use, display
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1 and/or sale of the “WiCall” mark and goods and services marketed in connection therewith,
2 pursuant to Section 14250(a).

3 79. Plaintiff has been and continues to be damaged by Defendants' above-alleged violations of
4 Plaintiff's rights in the California Service Mark; wherefore, wherefore, pursuant to Sections
5 14245(a)(1), Plaintiff is entitled to treble damages pursuant to Section 14250(a).

7 80. Defendants have acted intentionally and despicably with oppression, fraud and malice
8 toward Plaintiff, with the intention of annoying and injuring Plaintiff and damaging Plaintiff's
9 lawful business. Plaintiff, therefore is entitled to an award of punitive damages for the sake of
10 example, and by way of punishing Defendants pursuant to California Civil Code § 3294.
11

12 **FIFTH CLAIM FOR RELIEF**
13 **Unfair Competition In Violation of**
14 **Cal. Bus. & Prof. Code § 17200, Et. Seq.**
Against All Defendants

15 81. Plaintiff realleges and incorporates by reference herein each and every allegation set forth
16 herein as if set forth fully hereat

17 82. Defendants are all "persons" within the meaning of California's Business and Professions
18 Code § 17201.

19 83. As a result of the continued advertising, promotion, offering for sale, and sales of VoIP and
20 telephone services by plaintiff for over sixteen (16) years under the iCall® mark, said mark has
21 developed a secondary meaning among purchasers in Plaintiff's and Defendants's trade area, and
22 is a distinctive trademark.
23

24 84. iCall® has come to indicate to such purchasers that Plaintiff's VoIP and related products
25 originate only with Plaintiff.
26

27 85. Defendants' use of the iCall® mark by bodily incorporating it in the “WiCall” mark is likely
28 to cause, and on information and belief, has actually caused consumer confusion, mistake and

1 deception regarding the source of the goods and services offered and sold by Defendants in
2 interstate commerce.

3 86. Defendants' usurpation and use of the iCall® mark by bodily incorporating it in the
4 “WiCall” mark to offer and sell VoIP, long-distance, and related products and services, just as
5 Plaintiff has done for sixteen years prior, constitutes unfair competition and unfair business
6 practices through the infringement of Plaintiffs' preexisting rights in the iCall® mark.

7
8 87. Defendants have infringed Plaintiffs' iCall® mark as alleged herein with the intent to
9 deceive the public into believing that goods and services advertised by Defendants are made by,
10 approved by, sponsored by, or affiliated with Plaintiff, and/or to oppress Plaintiff; alternatively
11 and conjunctively, Defendants have engaged in such conduct with the intent to deceive the
12 public into believing that goods and services advertised by Plaintiffs are made by, approved by,
13 sponsored by, or affiliated with Defendant, and/or to oppress Plaintiff.

14
15 88. Plaintiff has been and continues to be damaged by Defendants' acts of unfair competition
16 and unfair business practices.

17
18 89. Accordingly Defendants' conduct constitutes unfair competition and an unfair business
19 practice under California Business and Professions Code § 17200 et seq. as an infringement of
20 Plaintiffs' rights. Plaintiff is entitled to injunctive relief ordering Defendants to cease such
21 unlawful business practices and unfair competition pursuant to California Business and
22 Profession Code § 17203.

23
24 90. Pursuant to California Business and Professions Code § 17200 et seq., Plaintiff is entitled to
25 an award restoring to Plaintiff any monies or profits that Defendants have wrongfully acquired or
26 caused to be lost as a result of their violations, as will be established by proof at trial.
27
28

1 91. Defendants have acted intentionally and despicably with oppression, fraud and malice
2 toward Plaintiff, with the intention of annoying and injuring Plaintiff and damaging Plaintiff's
3 lawful business. Plaintiff, therefore is entitled to an award of punitive damages for the sake of
4 example and by way of punishing Defendants pursuant to California Civil Code § 3294.
5

6 **SIXTH CLAIM FOR RELIEF**
7 **Declaratory Relief Pursuant To**
8 **28 U.S.C. §§ 2201 and 2002**
9 **Against All Defendants**

10 92. Plaintiff realleges and incorporates herein by reference each and every allegation set forth
11 herein as if set forth fully hereat.

12 93. An actual controversy now exists between Plaintiff and Defendants concerning:

- 13 (a) Plaintiff's rights to exclusive use of the iCall® trademark, the
14 California Service Mark, and the iCall, Inc. trade name, and
15 to bar the Defendants' from using any marks, designations
16 of origin, trade names, that are confusingly similar to, or
17 colorable imitations of, the said trademark, service mark,
18 and trade name;
- 19 (b) The invalidity of Defendant's fraudulent trademark application
20 Serial Number 85574570 now pending with the United
21 States Patent and Trademark Office;
- 22 (d) Plaintiff's rights to obtain an accounting and disgorgement of
23 all monies, accounts receivable, and purchase orders related
24 to the sale of goods and services using the "WiCall" mark;
25
26
27
28

(e) The liability of Defendants for trademark infringement, false designation of origin, trademark dilution, and unfair competition under the Lanham Act;

(f) The liability of Defendants for trademark infringement, false designation of origin, trademark dilution, and unfair competition, under California and/or common law;

(f) Whether Defendants are barred by equitable doctrines including laches, unclean hands, waiver and estoppel, from asserting any rights to exploit colorable imitations of Plaintiff's mark.

94. Plaintiff is unable to use its trademarks effectively without actual and likely confusion in the marketplace until a judicial determination of the foregoing disputed issues is obtained.

95. Wherefore, pursuant to 28 U.S.C. §§ 2201 and 2202, Plaintiff seeks a declaration of the rights and duties of the parties.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests entry of judgment in its favor and against Defendants as follows:

A. A permanent injunction prohibiting Defendants from:

1. Using the iCall® mark alone or in combination with other words, symbols or designs including in any manner in connection with telephone service, long distance service, or VoIP products and services;

1 2. Using the mark “WiCall” as the name of designation of origin of any product or
2 service, alone or in combination with other words, symbols or designs in connection with
3 telephone service, long distance service, or VoIP products and services;
4

5 3. Using any representations of fact in connection with its products which are likely
6 to cause confusion, or to cause a mistake or to deceive as to the affiliation, connection or
7 association of Defendants and Plaintiff, or as to the origin, sponsorship or approval of
8 Defendants' products by Plaintiff;
9

10 4. Using any colorable imitation or counterfeit of California Registered Service
11 Mark 66916 to label, identify, promote, advertise, sell, or offer any products or services within
12 the State of California;
13

14 5. Prosecuting Defendant’s fraudulent trademark application Serial Number
15 85574570, now pending with the United States Patent and Trademark Office;
16

17 6. Prosecuting any other trademark applications that may have the effect of clouding
18 Plaintiff’s exclusive rights to the use of the iCall® mark and California Registered Service Mark
19 66916;
20

21 B. An award of actual damages suffered by Plaintiff in such amount as shall be established
22 by proof, trebled pursuant to Cal. Business & Professions Code § 14250(a);
23

24 C. An accounting and disgorgement of Defendants' profits from the sale of goods and
25 services made in any manner resulting from the Defendants’ use of the “WiCall” mark, under 15
26 U.S.C. § 1117, in such amount as shall be established by proof;
27

28 D. An accounting and disgorgement of any monies or profits that Defendants have
wrongfully acquired or caused to be lost as a result of their violations of the California Business

1 and Professions Code §§ 17200 et. seq., 14320, 14330, and 14415, in such amount as shall be
2 established by proof, trebled pursuant to Cal. Business & Professions Code § 14250(a);

3 E. A finding that the infringements by Defendants were willful, and/or that Plaintiff's
4 recovery is inadequate based on Defendants' profits; wherefore treble damages are warranted
5 pursuant to 15 U.S.C. § 1117(a);

6
7 F. A finding that this is an exceptional case, and that an award to Plaintiff of its full costs
8 and reasonable attorney's fees is therefore warranted pursuant to 15 U.S.C § 1117;

9
10 G. An order pursuant to 15 U.S.C. § 1116(a), requiring Defendants to file with the Court and
11 serve on Plaintiff within thirty (30) days after service of an injunction order as requested herein,
12 a report in writing under oath setting forth in detail the manner and form in which they have
13 complied with the Court's Order;

14 H. Punitive damages pursuant to California Civil Code § 3294;

15 I. Pre-judgment interest, costs, expenses and reasonable attorney's fees for this suit;

16 J. Such other and further relief that this Court may deem just and proper.

17
18 Dated: August 31, 2012

CHARLES CARREON, ESQ.

19
20 By: /s/Charles Carreon
21 CHARLES CARREON (127139)
22 Attorney for Plaintiff ICall, Inc.
23
24
25
26
27
28

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a jury trial.

Dated: August 29, 2012

CHARLES CARREON, ESQ.

By: /s/Charles Carreon
CHARLES CARREON (127139)
Attorney for Plaintiff ICall, Inc.

Exhibit 1

Int. Cl.: 38

Prior U.S. Cls.: 100, 101, and 104

Reg. No. 2,194,066

United States Patent and Trademark Office

Registered Oct. 6, 1998

**SERVICE MARK
PRINCIPAL REGISTER**

ICALL

**WYATT WILLIAMS AND JOEL LIBOVE PART-
NERSHIP, THE (PARTNERSHIP) , DBA
ICALL,
15005 BEACON RIDGE #200
SENECA, SC 29678**

**FOR: TELEPHONE COMMUNICATION
SERVICES, INCLUDING AURAL AND OPTI-**

**CAL INFORMATION TRANSMISSION, IN
CLASS 38 (U.S. CLS. 100, 101 AND 104).
FIRST USE 4-1-1996; IN COMMERCE
11-19-1997.**

SN 75-098,581, FILED 5-3-1996.

HENRY S. ZAK, EXAMINING ATTORNEY

Side - 1

**NOTICE OF ACKNOWLEDGEMENT
OF §15 DECLARATION
MAILING DATE: Jan 26, 2010**

The affidavit of incontestability filed in connection with the registration identified below meets the requirements of Section 15 of the Trademark Act, 15 U.S.C. §1065. The affidavit is acknowledged. For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov/>.

REG NUMBER: 2194066
MARK: ICALL
OWNER: GILBERT, ARLO C, MR.

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

Charles Carreon
Online Media Law, PLLC
2165 S. Avenida Planeta
Tucson, AZ 85710

Exhibit 2

Domain: icall.com - [Whois History](#)

Cache Date: 2002-11-11

Registrar: G.K. GROUP, L.L.C.

Server: whois.gkg.net

Created:

Updated:

Expires:

Reverse Whois: Click on an email address we found in this whois record to see which other domains the registrant is associated with
43892@whois.gkg.net

Registrant:

None
 Mackel John
 444 S. Figueroa St.
 Suite 1675
 Los Angeles, CA 90071
 US
 (310) 849-9356
43892@whois.gkg.net

Administrative Contact:

None
 Mackel John
 444 S. Figueroa St.
 Suite 1675
 Los Angeles, CA 90071
 US
 (310) 849-9356
43892@whois.gkg.net

Technical Contact:

None
 Mackel John
 444 S. Figueroa St.
 Suite 1675
 Los Angeles, CA 90071
 US
 (310) 849-9356
43892@whois.gkg.net

Billing Contact

None
 Mackel John
 444 S. Figueroa St.
 Suite 1675
 Los Angeles, CA 90071
 US
 (310) 849-9356
43892@whois.gkg.net

Registrar.: gkg.net (<http://register.gkg.net/>)
 Domain Name: ICALL.COM
 Created on.....: 25-NOV-1996
 Expires on.....: 15-JAN-2004
 Record last updated on..: 01-SEP-2002

Domain servers in listed order:

NS1.FORMNEX.NET	208.179.252.224
NS2.FORMNEX.NET	208.179.252.241

Exhibit 3

State of California
Secretary of State

CERTIFICATE OF REGISTRATION OF SERVICE MARK

I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

Service Mark Reg. No.:	66916
Name of Registrant:	iCall, Inc.
Business Address:	41 West Putnam Ave., Greenwich, CT 06930
State of Incorporation/ Organization:	Delaware
Date First Used in California:	March 3, 1999
Date First Used Anywhere:	April 1, 1996
Description of Service Mark:	iCall
Description of Services with which the Service Mark is Used:	Telecommunications Services; Carrier Services; Mobile Platforms
Class Number(s):	38
Date of Registration:	November 9, 2010
Term of Registration Extends to and Includes:	November 9, 2015

In accordance with the application filed in this office, the Service Mark described above has been duly registered. A copy, specimen, facsimile, counterpart or a reproduction of the mark is attached.

IN WITNESS WHEREOF, I execute
this certificate and affix the Great
Seal of the State of California this
30th day of November 2010



DEBRA BOWEN
Secretary of State

00066916

iCall

Exhibit 4



common good *privacy* *All people* *Liberty* *Speak* *without discrimination.*
Conscience

California Secretary of State Debra Bowen

Secretary of State
Administration
Elections
Business Programs
Political Reform
Archives
Registries
Other Services

Business Entities (BE)

Online Services

- Business Search
- Disclosure Search
- E-File Statements
- Processing Times

Main Page

Service Options

Name Availability

Forms, Samples & Fees

Annual/Biennial Statements

Filing Tips

Information Requests
(certificates, copies & status reports)


Service of Process

Business Entity Detail

Data is updated weekly and is current as of Friday, April 13, 2012. It is not a complete or certified record of the entity.

Entity Name:	ICALL, INC.
Entity Number:	C2156652
Date Filed:	03/10/1999
Status:	MERGED OUT
Jurisdiction:	CALIFORNIA
Entity Address:	** 811 WILSHIRE BLVD STE 1650
Entity City, State, Zip:	LOS ANGELES CA 90017
Agent for Service of Process:	** RESIGNED ON 10/22/2001
Agent Address:	*
Agent City, State, Zip:	*

Exhibit 5


[Store](#)
[Mac](#)
[iPod](#)
[iPhone](#)
[iPad](#)
[iTunes](#)
[Support](#)

iTunes Preview


[What's New](#)
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[What's on iTunes](#)
[iTunes Charts](#)
[How To](#)

iCall Free VoIP

By iCall, Inc.

Open iTunes to buy and download apps.

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Free

Category: Social Networking
Updated: Mar 01, 2012
Version: 2.0.0
Size: 4.6 MB
Language: English
Seller: iCall, Inc.
© 2009 iCall, Inc.
Rated 4+

Requirements: Compatible with iPhone, iPod touch, and iPad. Requires iOS 4.3 or later.

Description

Selected as a New York Times App of the Week, iCall is used by over 4,000,000 people worldwide. iCall is changing the way people around the globe communicate.

[iCall Free VoIP Support](#) [...More](#)

What's New in Version 2.0.0

- Updated retina UI
- iCall messaging
- Facebook chat

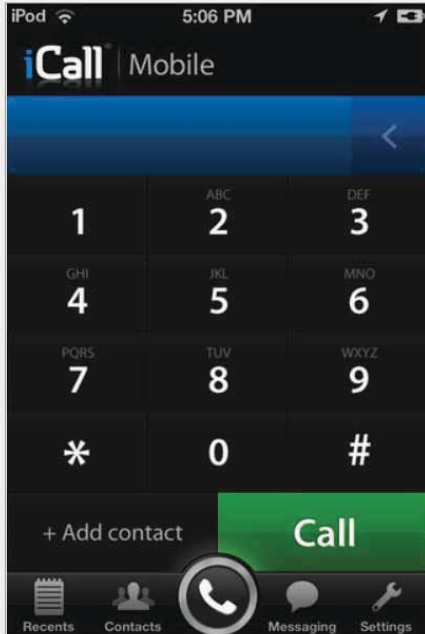

[...More](#)

Customer Ratings

Current Version:
★★ 50 Ratings

All Versions:
★★★ 91366 Ratings

iPhone Screenshots

Customer Reviews

Idk what everyones talking about ★★★★★
by Obliviater

This app is great! Way better than any other calling app out there.

Would be easier to review if it worked?! ★
by Mike Jordan

Waste of time

Awesome ★★★★★
by Giants.guy

It's pretty cool.

Exhibit 6

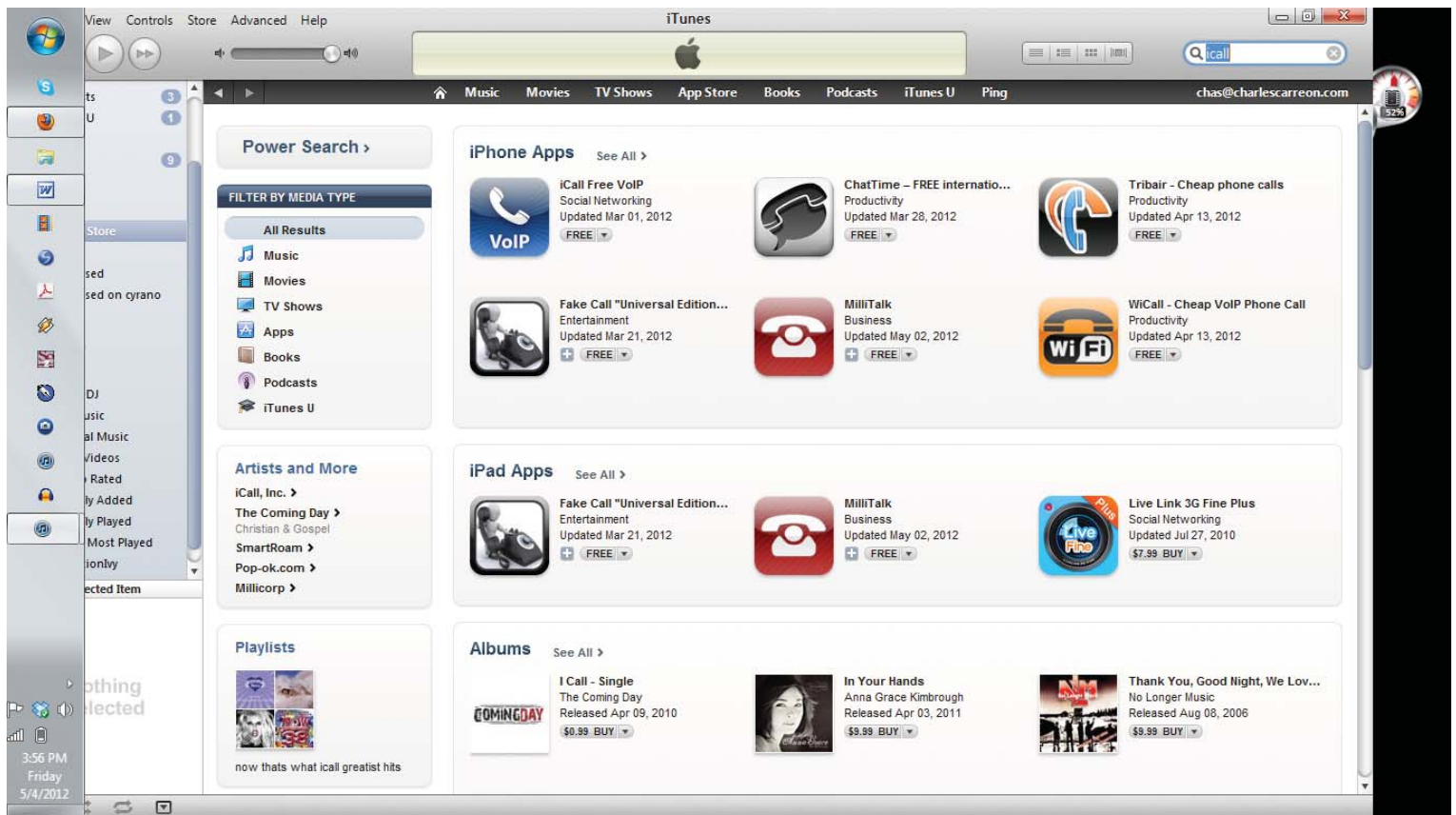







Exhibit 7

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Google wicall android  chascarre... 0 + 

Search About 24,800 results (0.25 seconds)   

Everything

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Maps

Videos

News

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Tucson, AZ

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WiCall : VoIP call, wifi call - Android Apps on Google Play<https://play.google.com/store/apps/details?id=com.wicall&hl=en>Mar 29, 2012 – Make cheap calls using your wifi / 3G. Cheaper than Skype out, better than Viber "The cheapest VOIP service on the **Android** Market" Incredibly ...**WiCall : VoIP call, wifi call - Android app on AppBrain**www.appbrain.com > All apps > Communication

★★★★★ Rating: 4.2 - 1779 votes

WiCall : VoIP call, wifi call: **Android** app (★★★★★, >250000 downloads) ⇒ "The cheapest VOIP service on the **Android** Market" Incredibly cheap...**WiCall : VoIP call, wifi call for Android - Download.com**download.cnet.com/WiCall-VoIP.../3000-10440_4-75614034.htmlNov 23, 2011 – The cheapest VOIP service on the **Android** Market! Incredibly cheap mobile calls, you won't believe our rates for your long distance or ...**Wicall rates - Best Android Apps: WiCall, VoIP calls with | Best ...**bestandroidappsfree.com/.../best-android-apps-wicall-voip-calls-with/Oct 1, 2011 – Best **Android** Apps: **WiCall** for **Android**, VoIP calls, the use of VoIP has never been so easy, as long distance cards and Skype already hate us.**WiCall: Wifi Calling on Android - YouTube**www.youtube.com/watch?v=JhX2-njn_O4

Nov 10, 2011 - 48 sec - Uploaded by zenilabs

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More videos for **wicall android** »**Wifi Voiper WiCall for Android : Free trial credit - FREEvCALLS**freevcalls.blogspot.com/.../wifi-voiper-wicall-for-android-free.htmlOct 24, 2011 – Zenitalk.com has below applications available in **Android** market -. Wifi Voiper for **Android**; **WiCall** for **Android**; Call Africa for **Android**; Call ...**WiCall : VoIP call, wifi call - Free Download for Android**sobetilapeloncete2.bazaarandroid.com/...wicall/...

★★★★★ Rating: 5 - 1 vote

android.permission.INTERNET Allows applications to open network sockets.**android.permission.RECORD_AUDIO** Allows an application to record audio.**Amazon.com: WiCall : VoIP call, wifi call: Appstore for Android**www.amazon.com/WiCall-VoIP-call-wifi/dp/B006GIBPKE

References to alcohol, tobacco and drugs • Simulated gambling or references to casinos and gambling culture • Partial or brief nudity in a non-sexual context ...

WiCall : call over wifi 11 free download for 1.5 and upwww.freenew.net/android/wicall-call-over-wifi-11/144710.htmSep 27, 2011 – **WiCall** : call over wifi 11 free download, download **WiCall** : call over wifi 11 **Android** app for free within one single click. We only collect free ...**Wicall Android Android Apps & Games | DroidMill**droidmill.com/tag/wicall+android 10+ items – Facebook for **Android**, Tagged **Android** App, Official eBay ...Facebook for **Android** 100000000-500000000 3.6 (2792302) Share and ...**WiCall** : VoIP call, wifi call 100000-500000 4.2 (2027) Make cheap ...

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Verizon Wirelesswww.verizonwireless.com/Find Exclusive Deals on the Latest **Droid** Devices at the Official Site!

192 people +1'd Verizon Wireless

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Google wicall app

Charles Carreon 0 + Share

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Everything

Images

Maps

Videos

News

Shopping

Applications

More

Tucson, AZ

Change location

Show search tools

WiCall : VoIP call, wifi call - Android Apps on Google Play
<https://play.google.com/store/apps/details?...wicall...>

★★★★★ 2,758 votes - Free - Android

Mar 29, 2012 – Make cheap calls using your wifi / 3G. Cheaper than Skype out, better than Viber "The cheapest VOIP service on the Android Market" Incredibly ...

WiCall : VoIP call, wifi call - Android app on AppBrain
www.appbrain.com > All apps > Communication

★★★★★ 2,715 votes - Free - Android - Communication

WiCall : VoIP call, wifi call: Android **app** (★★★★★¼, >250000 downloads) ⇒ "The cheapest VOIP service on the Android Market" Incredibly...

WiCall - Cheap VoIP Phone Call for iPhone 3GS, iPhone 4, iPhone ...
itunes.apple.com/us/app/wicall-cheap-voip-phone.../id489885695?...

★★★★★ 26 votes - Free

Apr 13, 2012 – To download the free **app WiCall** - Cheap VoIP Phone Call by Tribair, ... **WiCall** is simply the easiest and cleanest **application** to make cheap ...

free wicall app - free android and iphone app along with software ...
www.freenew.net/search/?k=free+wicall+app
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WiCall : VoIP call, wifi call - Android Apps and Tests - AndroidPIT
www.androidpit.com > All Android Apps > Communication

The cheapest VOIP service on the Android Market" Incredibly cheap mobile calls, you won't believe our rates for your long distance or international calls.

WiCall - Cheap VoIP Phone Call - iOS app from Tribair Inc ...
www.appolicious.com/.../apps/1023281-wicall-cheap-voip-phone-cal...

Apr 13, 2012 – Ratings and reviews for **WiCall** - Cheap VoIP Phone Call.

WiCall : VoIP call, wifi call - Download.com
download.cnet.com/WiCall-VoIP.../3000-10440_4-75614034.html

Free - Android - Communication

Nov 23, 2011 – **Wicall** is a prepaid mobile wireless telephone service with no plan, ... Rate extract (other rates can be check in the RATE's tab in the **app**) in US ...

App Shopper: WiCall - Cheap VoIP Phone Call (Productivity)
appshopper.com/productivity/wicall-cheap-voip-phone-call

WiCall - Cheap VoIP Phone Call. iOS iPhone. **WiCall** is simply the easiest and cleanest **application** to make cheap internet phone calls all over the world. **WiCall** ...

WiCall - Cheap VoIP Phone Call - Details | App Annie
www.appannie.com/wicall-cheap-voip-phone-call/

Jan 3, 2012 – **WiCall** is simply the easiest and cleanest **application** to make cheap internet phone calls all over the world. **WiCall** has reached 1 million users ...

WiCall - Cheap VoIP Phone Call Productivity iPhone App - Online ...
www.topproductivityapps.com/wicall-cheap-voip-phone-call-product...

Jan 3, 2012 – TopProductivityApps.com gives **WiCall** - Cheap VoIP Phone Call iPhone & **WiCall** - Cheap VoIP Phone Call iPod Touch Productivity **App** ...

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↳ The Mac App Store - Over 200,000 apps for iPad - Apps for iPhone

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price: \$0.00, version: 1.5.1, category: Productivity, seller: Tribair Inc, size: 4.8 MB.

[WiCall : VoIP call, wifi call - Free Download for Android](#)sobetillapeloncete2.bazaarandroid.com/app/...wicall/...

★★★★★ Rating: 5 - 1 vote

This store does not have an associated Twitter account. New **apps** will not be tweeted. User Stores: + Click to Expand. Loading... **WiCall** : VoIP call, wifi call - 33 ...[WiCall - Mobile - Brothersoft.com](#)mobile.brothersoft.com/wicall call over wifi 1194...

Free - Android

Sep 29, 2011 – **WiCall** is based on CSipSimple and is licensed under GNU GPL v3. More information in the **app**. content rating: Everyone. Compatible devices: ...[WiCall : call over wifi 11 free download for 1.5 and up](#)www.freenew.net/android/wicall-call-over-wifi-11/144710.htmSep 27, 2011 – **WiCall** : call over wifi 11 free download, download **WiCall** : call over wifi 11 Android **app** for free within one single click. We only collect free ...[WiCall - Cheap VoIP Phone Call - mobile9](#)gallery.mobile9.com/asf/?uid=iolhpxvLbxtJan 9, 2012 – **WiCall** - Cheap VoIP Phone Call. Developed by Tribair. Imported by mobile9. empty star. FREE. Download On **App** Store. Add to Favourite ...[WiCall : VoIP call, wifi call - Discover Android Apps](#)www.discoverapp.net/view_app-com.wicall.htmlMar 8, 2012 – **Wicall** is a prepaid mobile wireless telephone service with no plan, ... Rate extract (other rates can be check in the RATE's tab in the **app**) in US ...[WiCall - Cheap VoIP Phone Call App Rank Graphs -- TopAppCharts ...](#)www.topappcharts.com/.../app-details-wicall-cheap-voip-phone-call...**WiCall** - Cheap VoIP Phone Call Graphs of **App** Ranking -- TopAppCharts.com.

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Why this ad?

[App Store: Download Apps | apple.com](#)www.apple.com/appsWith hundreds of thousands of **apps**, There's an **app** for almost anything.

↳ The Mac App Store - Over 200,000 apps for iPad - Apps for iPhone

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On Wednesday, March 28, 2012, status on the **WICALL** trademark changed to NEW **APPLICATION** - RECORD INITIALIZED NOT ASSIGNED TO EXAMINER.

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Exhibit 8

PTO Form 1478 (Rev 9/2006)

OMB No. 0651-0009 (Exp 12/31/2011)

Trademark/Service Mark Application, Principal Register**TEAS Plus Application****Serial Number: 85574570****Filing Date: 03/20/2012**

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	WiCall
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	WiCall
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Tribair Inc.
*STREET	1343 rue des pluviers
*CITY	Longueuil, Quebec
*COUNTRY	Canada
*ZIP/POSTAL CODE (Required for U.S. applicants only)	J4G2N4
PHONE	1 (514) 501-0705
EMAIL ADDRESS	eric@tribair.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes

WEBSITE ADDRESS	www.tribair.com
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION
* STATE/COUNTRY OF INCORPORATION	Canada
GOODS AND/OR SERVICES AND BASIS INFORMATION	
* INTERNATIONAL CLASS	038
IDENTIFICATION	Communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks; Telecommunication services, namely, wireless telephone services
* FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/03/2012
FIRST USE IN COMMERCE DATE	At least as early as 01/03/2012
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT11\IMAGEOUT11\855\745\85574570\xml1\FTK0003.JPG
SPECIMEN DESCRIPTION	"WiCall" with capital W and C
ADDITIONAL STATEMENTS INFORMATION	
* TRANSLATION (if applicable)	
* TRANSLITERATION (if applicable)	
* CLAIMED PRIOR REGISTRATION (if applicable)	
* CONSENT (NAME/LIKENESS) (if applicable)	
* CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
*NAME	Tribair Inc.
FIRM NAME	Tribair Inc.
*STREET	1343 rue des pluviers
*CITY	Longueuil, Quebec
*COUNTRY	Canada

* ZIP/POSTAL CODE	J4G2N4
PHONE	1 (514) 501-0705
* EMAIL ADDRESS	eric@tribair.com
* AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	275
* TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/Eric Reiher/
* SIGNATORY'S NAME	Eric Reiher
* SIGNATORY'S POSITION	CEO
SIGNATORY'S PHONE NUMBER	1 (514) 501-0705
* DATE SIGNED	03/20/2012

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85574570

Filing Date: 03/20/2012

To the Commissioner for Trademarks:

MARK: WiCall (Standard Characters, see [mark](#))

The literal element of the mark consists of WiCall.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Tribair Inc., a corporation of Canada, having an address of
1343 rue des pluviers
Longueuil, Quebec J4G2N4
Canada

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 038: Communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks; Telecommunication services, namely, wireless telephone services

In International Class 038, the mark was first used by the applicant or the applicant's related company or licensee at least as early as 01/03/2012, and first used in commerce at least as early as 01/03/2012, and is now in use in such commerce. The applicant is submitting one specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) "WiCall" with capital W and C.

[Specimen File1](#)

For informational purposes only, applicant's website address is: www.tribair.com

The applicant's current Correspondence Information:

Tribair Inc.

Tribair Inc.

1343 rue des pluviers

Longueuil, Quebec J4G2N4, Canada
1 (514) 501-0705(phone)
eric@tribair.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Eric Reiher/ Date Signed: 03/20/2012
Signatory's Name: Eric Reiher
Signatory's Position: CEO

RAM Sale Number: 1736
RAM Accounting Date: 03/21/2012

Serial Number: 85574570
Internet Transmission Date: Tue Mar 20 15:12:54 EDT 2012
TEAS Stamp: USPTO/FTK-173.177.42.169-201203201512547
44058-85574570-4901e84376a08c10ae5aa764e
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